

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division

CONSUMER FINANCIAL PROTECTION
BUREAU, et al.,

Plaintiffs,

v.

NEXUS SERVICES, INC., LIBRE BY
NEXUS, INC., MICHEAL DONOVAN,
RICHARD MOORE, and EVAN AJIN,

Defendants.

Case No.: 5:21-cv-00016-EKD-JCH

**DECLARATION OF JAMES E. SCOTT IN SUPPORT OF
PLAINTIFFS' SUPPLEMENTAL BRIEF**

I, James E. Scott, hereby declare as follows:

1. I am counsel of record for the Commonwealth of Virginia, *ex rel.* Jason S. Miyares, Attorney General (the "Commonwealth"), one of the Plaintiffs in this action. I am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge or information made known to me during the course of my official duties.

2. I submit this declaration in support of Plaintiffs' Supplemental Brief (ECF No. 189). Specifically, this declaration informs the Court about the status of discovery following entry of the Magistrate Judge's February 7, 2023 Order for Defendants to Show Cause & Certification under 28 U.S.C. § 636(e)(6)(B)(iii) (First Order to Show Cause).¹ This declaration further provides the Court with information relevant to the Magistrate Judge's February 7, 2023 Order to Show Cause (Second Order to Show Cause).²

¹ ECF No. 181.

² ECF No. 182.

3. Since entry of the First Order to Show Cause, no Defendant and no counsel on behalf of any Defendant has contacted any Plaintiff, whether in regard to further attempts to comply with the Discovery Order or otherwise.

4. Since entry of the First Order to Show Cause, Defendant Nexus Services, Inc. has not produced any deposition transcripts and, therefore, has not cured its noncompliance with ¶ 2 of the Discovery Order.³

5. Since entry of the First Order to Show Cause, Defendants Nexus Services, Inc. and Libre by Nexus, Inc. (Entity Defendants) have not informed Plaintiffs that they retained a discovery vendor, and Plaintiffs are therefore unaware of any action taken by the Entity Defendants to comply with ¶ 3 of the Discovery Order.⁴

6. Since entry of the First Order to Show Cause, the Entity Defendants have not produced any ESI to Plaintiffs and, therefore, have not cured their noncompliance with ¶ 4 of the Discovery Order.⁵

7. Since entry of the First Order to Show Cause, the Entity Defendants have not produced any files from the NetSuite, QuickBooks, American Spirit, and Five-9 databases and, therefore, have not cured their noncompliance with ¶ 5 of the Discovery Order as it relates to these databases.⁶

8. Since entry of the First Order to Show Cause, the Entity Defendants have not produced any additional Lightspeed files and, therefore, have not cured their separate noncompliance with ¶ 5 of the Discovery Order as it relates to Lightspeed.⁷

³ First Order to Show Cause 20.

⁴ *Id.* at 21.

⁵ *Id.* at 22.

⁶ *Id.* at 23.

⁷ *Id.*

9. Since entry of the First Order to Show Cause, Defendants Micheal Donovan, Richard Moore, and Evan Ajin have not produced any documents concerning their financial condition and, therefore, have not cured their noncompliance with ¶ 9 of the Discovery Order.⁸

10. Since entry of the Second Order to Show Cause, the Entity Defendants have not informed Plaintiffs that they retained counsel as directed in the Magistrate Judge's January 11, 2023 Order.⁹

11. Defendants failed to appear at this Court's March 14, 2023 status conference.

12. The 2022 Annual Report filed with the Virginia State Corporation Commission (SCC) by Defendant Nexus Services, Inc. states that Defendants Micheal Donovan and Evan Ajin are its President and Vice President, respectively.¹⁰

13. The 2022 Annual Report filed with the SCC by Defendant Libre by Nexus, Inc. states that Defendants Micheal Donovan and Evan Ajin are its President and Vice President, respectively.¹¹

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 3, 2023

/s/ James E. Scott
James E. Scott
Attorney for Plaintiff
Commonwealth of Virginia, *ex rel.*
Jason S. Miyares, Attorney General

⁸ *Id.* at 25.

⁹ ECF No. 178.

¹⁰ A true and accurate copy of the SCC's 2022 Annual Report for Defendant Nexus Services, Inc. is attached hereto as Exhibit 1.

¹¹ A true and accurate copy of the SCC's 2022 Annual Report for Defendant Libre by Nexus, Inc. is attached hereto as Exhibit 2.

CERTIFICATE OF SERVICE

I hereby certify that on April 3, 2023, I electronically filed the foregoing document and exhibits with the Clerk of the Court using the CM/ECF system, and I hereby certify that I have mailed the document and exhibits by United States Postal Service to the following non-CM/ECF participants:

Defendant Libre by Nexus, Inc.
113 Mill Place Pkwy, Suite 103
Verona, Virginia 24482

Defendant Nexus Services, Inc.
113 Mill Place Pkwy, Suite 103
Verona, Virginia 24482

Defendant Micheal Donovan
47 S. Windsong Ct.
Fishersville, Virginia 22939

Defendant Richard Moore
47 S. Windsong Ct.
Fishersville, Virginia 22939

Defendant Evan Ajin
8 Gables East Blvd, Apt. 204
Fishersville, Virginia 22939

/s/ James E. Scott
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